THE HONOURABLE SMT. JUSTICE T.MEENA KUMARI

AND

THE HONOURABLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.28485 OF 2007

Between:

M/s.Diamond Dot rep. by its Partner
Sri R.Bala Murali Krishna.

…Petitioner.

AND

The Additional Commissioner (CT) (Legal),
O/o. the Commissioner of Commercial Taxes,
Hyderabad and two others.

..Respondents.

THE HONOURABLE SMT. JUSTICE T.MEENA KUMARI
AND
THE HONOURABLE Ms. JUSTICE G.ROHINI

WRIT PETITION No.28485 OF 2007

ORDER: *(Per Hon'ble Smt. Justice T.Meena Kumari)*

The present writ petition is filed by the petitioner seeking to declare the order of the Additional Commissioner (CT) Legal, Hyderabad in CCT's Ref.No.LIII(2)/748/2007, dated 20.11.2007, as illegal and arbitrary and to set aside the same and to interdict the 3rd respondent from collecting tax in dispute in pursuance of the order of the assessment for the period from June, 2005 to March, 2007 during pendency of the appeal before the appellate Deputy Commissioner (CT) Legal.

The main grievance of the petitioner is that against the assessment order for June, 2005 to March, 2007, the petitioner preferred appeal before the appellate Deputy Commissioner (CT). The petitioner also filed stay application seeking stay of collection of the disputed tax. But the said application was dismissed. Hence, the petitioner filed revision before the Additional Commissioner (CT) (Legal), who rejected the same. Having

aggrieved by the same, the present writ petition has been filed.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner has already paid 12.5% of the disputed tax and the appeal is pending before the 2nd respondent and at this juncture, if the relief as to the stay of the proceedings is not entertained and if the recovery of disputed tax is effected, the very purpose of filing the said appeal, which is a statutory remedy that is available to the aggrieved party, would be defeated.

In the facts and circumstances of the case and in view of submission made by the learned Counsel that the petitioner has already paid 12.5% of the disputed tax and in view of the pendency of the appeal, without expressing any opinion on the merits of the case, we feel it is a fit case wherein stay can be granted, but subject to imposition of certain conditions.

Accordingly, there shall be stay of recovery of disputed tax for the period from June, 2005 to March, 2007 till the disposal of the appeal pending before the 2nd respondent subject to the condition of the petitioner depositing 50% of the disputed tax in question, within a period of six weeks from today. However, it is made clear that the amount paid, if any, shall be given credit to the above stipulated sum.

Subject to the above direction the writ petition is disposed of. No order as to costs.

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T.MEENA KUMARI, J.

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G. ROHINI, J.

Date:31-12-2007.

Note: Furnish operative portion
of the order by wire at
party's costs.
(B/o)
GS